

PUBLIC HEARING

6:00 P.M. (7)OA R-14-04 Oak Pointe – 4435 S. Calhoun Rd. – Rezone from R-4 to Rm-1.

NEW BERLIN PLAN COMMISSION  
NEW BERLIN CITY HALL COUNCIL CHAMBERS

FEBRUARY 7, 2005

MINUTES

The public hearing relative to the request by Robert Williams, TDI c/o Oak Point for a rezoning at 4435 S. Calhoun Road from R-4 to Rm-1 was called to order by Mayor Wysocki at 6:03 P.M.

In attendance were Mayor Wysocki, Alderman Ament, Mr. Barnes, Mr. Sisson, Mr. Gihring, Mr. Felda. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Olofu Agbaji, Associate Planner; Amy Bennett, Associate Planner; Eric Nitschke, Storm Water Division Engineer; Larry Wilms, Division Engineer. Mr. Teclaw was excused.

Ms. Jones read the public hearing notice and stated there was proof of publication.

Mr. Agbaji gave a brief presentation describing the request and showed maps indicating the location.

Mayor Wysocki asked if there were any comments or questions for the purpose of clarification.

Barbara Colby, 4585 S. Harland Drive – I was told this was going to be apartments and now you tell me it is going to be condos, which is it?

Mr. Agbaji – It is condominiums.

Ms. Colby – So they are going to be owned and not rented?

Mr. Agbaji - That is correct.

Ms. Colby – Has the traffic been taken into consideration?

Bob Williams, Representative for the project – We are estimating 6 trips per day per unit for about 96 trips. Peak trips would be between 7:30 a.m. and 8:30 a.m. and between 5:00 p.m. and 6:00 p.m. giving about 16 cars per hour, that is less than 1 car every 3 or 4 minutes so it is not a heavy generator of traffic. We will provide a complete traffic analysis.

Ms. Colby – Where is the parking going to be?

Mr. Williams – All of the units have a two car garage where most of the parking will take place.

Ms. Colby – What about water usage. I understand they will be on city water?

Mr. Williams – Yes

Ms. Colby – We already have restricted use during a drought and high usage times. We don't need the demand of 16 more condos. This is an awkward space with difficult corners. It is very small for that number of units.

Joe Russ, 16800 W. Shadow Drive – What is the traffic count per day at Calhoun and National?

Mr. Agbaji – We do not have this information. The applicant will submit a traffic statement.

Susan Krueger, 17140 W. Homestead Drive – What is the number of bedrooms per unit?

Mr. Williams – Two.

Ms. Krueger – What is the square footage of each?

Mr. Williams – The main floor would have 15,000 sq. ft. with the ability of having a lower level with exposed basements with another 15,000 sq. ft. The second floor would have 18,000 sq. ft.

Ms. Krueger – You said you are attracting mature renters. Are you designating this as senior housing?

Mr. Williams – The style of units attracts the mature market place.

Ms. Krueger – What is the cost of these units?

Mr. Williams – Low \$200,000's.

Sandy Halstead, 5150 S. Mars Drive – I understand West of Calhoun homes would be one per five acres. Does that apply to this area?

Mayor Wysocki – In the Master Plan there were different areas along Calhoun that have different density requirements in the zoning that would apply. I believe this area allows for mixed use residential or multi-family. It is considered a transitional area, mixed use residential in our Master Plan.

Ms. Halstead – This one home per five acres does not apply to this area?

Mayor Wysocki – In the Master Plan it did not.

Daryl Feryance, 17060 Mary Ross – Will sewer be allowed for this property?

Mayor Wysocki – Yes

Mr. Feryance – That is West of Calhoun. I thought Calhoun was the borderline?

Mayor Wysocki – There are segments, for instance, to the North there is a 300 ft. deep area of sewer property.

Mr. Feryance – Where would the driveway be in conjunction with Mary Ross and Calhoun ?

Mr. Agbaji – That will be determined when the use, site, and architecture is considered.

Mayor Wysocki asked three times for any further questions for clarification, seeing none.

Mayor Wysocki asked if there was anyone wishing to speak in favor?

Michael Obradovich – 21334 W. Oak Crest Drive – I frequently drive past this property and I think it would be a nice place for someone like my father to come and live. It would offer him a place with some privacy and it would be close to where I live, which is obviously New Berlin. The school is closing across the street so that won't be around very long. I am in favor of this project.

Mayor Wysocki asked three times if there was anyone else wishing to speak in favor, seeing none.

Mayor Wysocki asked if there was anyone wishing to speak in opposition?

Susan Krueger, 17140 W. Homestead Drive – I am here to speak in opposition for a number of reasons. The first being, it is too high a density for such a small area. We already have a high density of multi-family at Victorians and this corner does not need more multi-family so close to single-family residents. I am worried about the storm water drainage. Storm water drainage is a problem in this area and I think this would only contribute to it more. Third, I am concerned about the congestion of the intersection and as far as senior housing, I think New Berlin has enough of it. Put me down in opposition.

Dave Drew, 16940 Mary Ross – Living down the block from this. We also have had those large, ugly Victorians jammed down our throats and have to look at those from our backyard. We don't need these. Like the Victorians, more units are trying to be squeezed in. I don't see an area for detention or retention ponds. The buildings look large for the area and I would like to see it stay single-family.

Larry Kamke – 4510 S. Calhoun – I have a concern about the traffic. I am opposed to the reconstruction of Beloit and Calhoun Roads because of the traffic of semi trucks going Northbound on Calhoun. This development will only increase traffic. I have a special needs child that gets picked up and dropped off by a bus everyday. I have lived there 14 years and was unaware that certain areas west of Calhoun fell into this area of the Master Plan that now can be changed apparently. I am not well versed on the City of New Berlin rules but that is a surprise to me. I learned that there is still a "for rent" sign on the apartments across the street that has been sitting there since it has been constructed. There are more apartments going up to the northeast of that property. I see no reason for this other than for the developer to profit. I can't see how anyone can look at 16 units on 2 acres and think that it is a good idea unless it might help the tax base. The drainage there is bad, the farmer across from me has Lake Calhoun there again today. How can you possibly think that the water runoff from the parking lot is going to go someplace. On record, I will do anything I can to oppose this project. I like the view I have facing Calhoun. The increased traffic was not designed for Calhoun. We have enough trucks already. I am totally against this.

Ralph Heun, 17765 W. Saturn Drive – I am opposed to this. There must be another way to develop west of Calhoun. Our friend, Mr. Kruschev many years ago called it the salami principle, keep cutting and cutting and cutting until it is all developed. You should be aware there is a large gas heater line that runs about 75 feet west of Calhoun down most of those properties. There is also a signal controlling station there. Anyone that monkeys around with that controlling station, will sound an alarm at the police station. It is too small of a sight. Across the street in the southeast corner there is a pond. I see no pond here or are we selective of how we let various developers do things. So, it is too small of a site, and it is just not the right place for it.

Scott Siebers, 16553 W. Crescent Drive – I am opposed to this. This is a similar proposal that was tried off of Observatory, just North of National where they tried to put in condos and at that time I was opposed due to additional parking, which no one has even talked about. What about additional parking? Two car garages are great for those who live there but people do have guests over and there are holidays. We have to look at the broad picture. Not only that, but the overall impact on that site is way too much, the additional traffic and depending on how the driveway is proposed, it could cause a dangerous situation. I agree with everyone else who

spoke about the environmental impact as well.

Mark Latus, 16532 W. Mary Ross – I would like to speak in opposition to this. I think the neighborhood has enough multi-family already. Secondly, we have a Master Plan designed for lower level of residences and in order for that plan to have any integrity, we ought to adhere to it and not change it.

Barbara Kronenwelter, 16790 W. Melody Drive – I am opposed to this plan because I like to think of things as looking beautiful. I moved in 17 years ago because I thought the neighborhood was beautiful. The park land was beautiful. Now all of a sudden, we are thinking of putting multi-family units in this beautiful space. That is why I am opposed to it.

Joe Russ, 16800 W. Shadow Drive – I go through this intersection five times a week and have seen the traffic increase that has happened with other developments. We have semis coming from Westridge and Muskego, traffic coming off Beloit Road, that intersection is being rebuilt and now you have this one. I ask myself, wouldn't you think before you put in multi-family homes? I can imagine the traffic won't get any better with another 16 residents. There are multi-family units to the east, with more on the way. We don't know the future of the school on the corner. We will be adding more older drivers to a busy area. That is not a good combination. You are asking for trouble. I have seen areas by Calhoun become a lake many times. I don't see any detention ponds planned for this area. Recently the Common Council shot down a higher density for Wildwood that you approved. There is a precedent for shooting down higher densities West of Calhoun. If you want a transition area, draw a line in the sand. The line in the sand should be Calhoun Road. Traffic, water concerns, and zoning, I am against it.

David Kane, 17030 W. Mary Ross – I too would like to speak in opposition for many of the same reasons that my neighbors have brought up, mainly because this is a monstrosity. I live right across from the Victorians and they aren't all that pretty. The landscaping and berming that they were supposed to do was poorly done. This is too small of a site for this plan. Again, there is a water runoff issue here as many of the others have stated. Those are my reasons for opposing.

Sandy Halstead, 5150 S. Mars Drive – I am also opposed because I feel this is far too small of an area for this big of a development. If it is considered elderly, it surprises me. When I become elderly, I would want somewhere more quiet, not on the corner of National and Calhoun. Calhoun was just redone and it is beautiful but it is a narrow country road and we already have all the truck traffic. I don't think the apartments across the street turned out very nice. Every time I look at them, I am disappointed that that is what ended up there. I think we should learn some lessons from Brookfield. They originally intended to just have stop signs going through their whole city and now it's so over built and if we aren't careful, we will have the same thing happen in New Berlin. If it has to be built, I think it should be a smaller density.

George Weber, 16685 W. Sumerland Ct. – I am totally opposed to this building site. My main reason is that I built a town home about a quarter mile East on National. You can call them condos now but after awhile they become apartments and my property value is going to drop. We already have the apartments across the street. I was opposed to building this kind of condos on Observatory and National for the reason of density. What do we want on National, apartment row or skid row later on. We will lose our country setting and I am opposed.

Vern Bentley, 3450 S. Johnson Road - People moved to New Berlin for what it is, the quiet, the beauty, the countryside. The developers come and build these big monsters and then go home to their quiet home and don't have to live with these things every day. It seems this is what these developers are doing throughout our city.

Barbara Colby, 4585 S. Harland Drive - We moved out here and built our home because this was a nice rural, secure, lovely place to live. We raised four children here and they all went to New Berlin Center. It is now so busy on that corner that I have trouble as an adult walking along

Calhoun. I have difficulty getting across the intersection to drop coupons at the grade school. This is not the kind of city that we anticipated. It used to be secure enough to latch our screen door and go to bed and know we were secure. Now that would be a laugh. This area is so small for that number of apartments. The traffic already backs up to Mary Ross in the morning and the evening. They won't even be able to get out of their driveways and yet you want to add traffic to this. It will make it more dangerous and certainly less attractive for anyone who wants to come out here and with the price that they anticipate charging for those condos, I wish them good luck because there is no way to landscape a corner like that with those large buildings on such a small lot. The whole thing would be a disaster for the area and the city. You want the reputation of New Berlin to go right down, it will. If you want the city to be known for being where if you have enough money and enough power, you can get anything pushed through. If you sneak it in the right way, they'll do it. The people pay the taxes and vote for people in office. If there is not enough response, we will vote them back out again. This is supposed to be a beautiful city, not a city with high-density development.

John Hebert, 6015 S. Aberdeen Drive – If I was a civic, I would take a look at this and I would take a look at the candidates forum a couple weeks ago and I'd say this is the beginning of the dominos that would lead to the sewerage that would lead down National to the natural limits of the city. But rather than be cynical, I will voice my opposition based upon more concrete issues. The first is the water management on this site. I don't drive National Avenue with the frequency that a lot of people do, but I do believe that with parking for sixteen units on a site, there needs to be some kind of water management. The other reason that I am opposed is if a property is zoned R-4, why can't we use it as R-4? I have been coming to these meetings for the past 12-14 years and I have yet to see somebody come forward and ask for a less intensive use of land. I think they have a right to ask but I don't think we are under any obligation to approve.

Terry Ehleiter, 17185 W. Salentine Drive – I am against building condos at this location since the ones across the street are an eyesore that were thrown in our face without us being able to vote on it. I like to come out of my patio door and look across Calhoun and see a farmers field. I see deer running in that field. I am against putting condos there.

Mayor Wysocki asked three times if there was anyone else wishing to speak in opposition, seeing none.

Mayor Wysocki asked for questions from the Commissioners.

Alderman Ament – Can we get the staff report corrected to reflect that these are condos, not apartment buildings?

Mayor Wysocki – Was it originally proposed as apartment buildings?

Mr. Agbaji – It is a concept. We are not rezoning for condos or apartments. We are rezoning it for multi-family. It originally came in as condominiums.

Mr. Williams – They were always proposed as condos, they were never proposed as apartments.

Alderman Ament – On the staff report on Page 3, under Traffic Impact it says that a traffic impact study will be supplied for the public hearing. Do we have that?

Mr. Williams – No, we do not have that at this time.

Mayor Wysocki – Is there a reason why you do not have it since you knew it was required?

Mr. Williams – It is a complex site and I had tried to get information from staff about the existing traffic counts and was unable to get that so we were unable to complete the traffic analysis.

Alderman Ament – We did at one time have an 80/20 policy. Do we have any idea where we stand with that?

Ms. Jones – That update has not been done for awhile. The city is now doing the housing element which is the update to the City's Master Plan section. It will be part of that. I know the last time we checked, it was fairly balanced, which was probably about two years ago.

Alderman Ament – Before this is before us for discussion, can we get the dimensions of the lot, all three sides?

Ms. Jones – Yes.

Alderman Ament – If that were to become a 130 ft. R-O-W, would that effect that property line on Calhoun Road and how would it relate to the size of the property?

Mr. Williams – Currently we have the R-O-W at 120 ft. If it went to 130 ft., it would effect this property by 10 ft. the entire length of Calhoun Road.

Alderman Ament – Nikki, can you keep that in mind? I know this is a rezoning but if we don't have the information for this, it is hard to make these decisions. Do we have the proposed height of these units?

Mr. Williams – They are about 27 ft. from grade of the front of the building.

Ms. Jones – According to the zoning code they cannot exceed 35 ft. in the Rm-1 district.

Alderman Ament – If this is rezoned to Rm-1, this could be condos or apartments, correct?

Ms. Jones – Correct.

Alderman Ament – Similar to what transpired at the Victorians where they were originally called condos and are now apartments. I am concerned that we do not have the traffic impact study at this time. Also, on Page 3 (d) Findings it states that an additional impact statement is needed. Where do we stand with the traffic impact analysis.

Mr. Williams – What you have is how many cars are generated in a day and during peak hours. What you need is what exists.

Alderman Ament – I am concerned, knowing it was needed and that it was not supplied.

Ms. Jones – A full impact traffic study would be required with all of the right turns, left turns, etc, once he comes in with his apartment or condo development because then we would officially know that he has his rezoning and we would know exactly how many units and that information would be put into the entire report and that is why we have asked him to simply provide us with what he believes those counts are based on good engineering practices and he has not provided that yet.

Mr. Williams – We have it written down, but you want it from the traffic engineer, not from us.

Ms. Jones - Correct.

Alderman Ament – So you were aware of what we wanted and we still don't have it.

Mr. Williams - Your definition of a traffic engineer needs to be defined because it was provided by an engineer. Wisconsin doesn't have separate practices for a traffic engineer and a professional engineer.

Mr. Sisson – I have concerns with the sanitary sewer and usage calculation. It says this lift station has no capacity for this basin. If the question cannot be answered to our satisfaction, does this move forward?

Mr. Agbaji - No, we make our recommendation based on the lack of capacity.

Mr. Sisson - When will we see this the next time?

Mr. Agbaji - It will be at the March 7 meeting for action.

Mr. Sisson: Under sanitary uses calculation you indicate that the residency is expected to be 2.77 persons per unit. Is that a mature market?

Mr. Agbaji - That is based on the census data.

Mayor Wysocki - The density of 7 units per acre is at the top level allowed.

Mr. Agbaji - That is per the code, 7 units per acre and it could go up to nine with incentives.

Mayor Wysocki - But this is the higher density range of what is allowed.

Mr. Agbaji - Yes.

Mayor Wysocki - There is also an opportunity for low density to occur in the mixed use transitional area. Multi-family, duplexes, and condominiums, would also be acceptable in this zoning request. I would like staff to have information on is the concern of sewer service to this area requiring an upgrade to handle the additional flow and that has an impact on the lift stations. A report would have to be generated and if there is any impact at all, it would have to be at the cost of the development.

Ms. Jones - It would be standard for this developer to provide us with a plan as to the different areas that these upgrades would need to occur and how he would propose to pay for those upgrades.

Mayor Wysocki - The next thing I would need to ask staff to be prepared to account for is the storm water management. Is there any indication from the applicant as to how this will be dealt with. In other words is there anything off site that they are looking to go to. On site was 2.8 acres and with the amount of area that we are looking at for development purposes, I too have a problem with storm water management on site.

Ms. Jones - They would have to meet the city's storm water ordinance in its entirety.

Mr. Barnes - Is the gas line along the road Right-Of-Way of Calhoun or is that inside the property line?

Mr. Williams - It does not show up on our survey so I was not aware that it existed.

Mayor Wysocki - I think it runs along the farm property to the west of this property. We will double check that for purposes of clarification.

Mr. Barnes - That is going to have an impact on storm water management and everything else.

Mr. Gihring - It appears the Right-Of-Way on Calhoun has been made wider in some places and not in others. If there is suppose to be an ultimate Right-Of-Way of 130 feet, does that happen at the time when the development comes in or how does that get done now and how much would it

take off of here? If we don't know tonight then we should have it for the next time.

Mr. Agbaji - If there is additional Right-Of-Way to be acquired, we will require it during use, site and architecture approval and that will have an impact on the density.

Mr. Gihring - So the revised sight plan would show the final Right-Of-Way.

Mayor Wysocki - We could not answer a lot of legitimate questions asked here at this public hearing tonight. I think we need this information for the Commissioners as well as the public at our next meeting on March 7.

Mayor Wysocki closed the public hearing at 6:54 P.M.

6:01 P.M. (3)AB CU-10-04 Deer Haven Banquet Hall – 19300 W. Cleveland Ave. –  
Banquet Hall.

NEW BERLIN PLAN COMMISSION

NEW BERLIN CITY HALL COUNCIL CHAMBERS

FEBRUARY 7, 2005

MINUTES

The public hearing relative to the request by Jeff Kernen, c/o Deer Haven Golf Course for a conditional use for a banquet hall located at 19300 W. Cleveland Avenue was called to order by Mayor Wysocki at 6:54 P.M.

In attendance were Mayor Wysocki, Alderman Ament, Mr. Barnes, Mr. Sisson, Mr. Gihring, Mr. Felda. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Olofu Agbaji, Associate Planner; Amy Bennett, Associate Planner; Eric Nitschke, Storm Water Division Engineer; Larry Wilms, Division Engineer. Mr. Teclaw was excused.

Ms. Jones read the public hearing notice and stated there was proof of publication.

Ms. Bennett gave a brief presentation describing the request and showed maps indicating the location.

Mayor Wysocki asked if there were any comments or questions for the purpose of clarification.

James Flagg, 3180 S. Thornapple Lane – How do they intend to get out of that property? There is only one road now at the end of Wehr and it is congested as it is. I don't see a good way of getting in there.

Ms. Bennett – There is a shared access on Cleveland Avenue.

Mayor Wysocki – So that shared driveway would handle all the traffic going to the golf course and banquet facility?

Ms. Bennett – Yes.

Vern Bentley, 3450 S. Johnson Road – (referred to map) What did Jeff (the applicant) say about that parcel of land (pointed to the top of the map) that is not included in the plan?

Mr. Kernen - That is the area that Walters did their dumping.

Mr. Bentley – How many employees will there be?

Mr. Kernen - Four to Five.

Mr. Bentley – What will they do?

Mr. Kernen – Cater to people. The food will be catered in, there will be no cooking.

Mr. Bentley – So they are not employees?

Mr. Kernen – The food will be dropped off and our people will serve it.

Mr., Bentley – What are the hours of operation?

Mr. Kernen – 12:00 noon – 2:00 a.m. for 300 people.

Mr. Bentley – What about lighting?

Ms. Jones – A lighting plan has been submitted for the entire parking area for both lots.

Mr. Bentley – When Deer Haven, Raven, and Tee It Up requests came in, it was an agreement that it would only operate during daylight hours only. The people around there want it dark. Why is there going to be a lighting plan?

Ms. Jones – A Conditional Use application requires a lighting plan.

Mr. Bentley – Will there be music?

Mr. Kernen – Yes.

Mr. Bentley – How late?

Mr. Kernen – 12:00 midnight.

Mr. Bentley – Anybody else has to get a special permit for music until midnight unless they are a business. Will they need a liquor license?

Ms. Bennett – A liquor license would be required. The properties would be combined and in June when the current license is due, they would need to renew.

Mr. Bentley – Will the driving range still exist?

Mr. Kernen – Yes.

Mr. Bentley – This sounds like a business and according to our Master Plan, there is not supposed to be any businesses West of Calhoun Road along Cleveland Avenue. We are putting a banquet hall which is a business in an area the Master Plan says it is not allowed.

Mayor Wysocki – That is the request.

Mr. Bentley – What about water usage?

Ms. Jones – It is private well. Usage is calculated at 800 gallons per day.

Mr. Bentley – Shouldn't there be a water study done since usage is bound to go up with 300 more people using water between 12:00 and 2:00?

Mayor Wysocki – There should be a water analysis done on the impact of the facility.

Mr. Bentley – When Raven originally came with their proposal, there was about an acre parcel that was also part of the development but it is a landfill and was taken out of the plan because it was a landfill and the DNR would have to come in and inspect it and it is possibly contaminated. We don't know what kind of contamination is there and it could contaminate the adjoining wells and more than that, it could be a health hazard for this facility. Will there be anything done to inspect this landfill?

Ms. Jones – I believe they are required by Waukesha County to get well samples tested. If it is off site, staff would have a hard time requiring him to do an off site study.

Mary Kluever, 19775 Imperial Ct. – I understand that there was a request for a zoning change to use this property as a restaurant that was turned down. Is that correct?

Ms. Bennett- Yes, A Conditional Use request for a supper club was denied on October 4, 2004.

Ms. Kluever – I am not familiar with conditional use but I understand it would be a zoning change from Park to Commercial. The next thing I heard, the request had evolved into a request for a golf arcade, snack bar, and mini golf. What happened to that?

Ms. Bennett – That application was withdrawn in December prior to any public hearing.

John Hebert, 6015 S. Aberdeen Drive – Awhile back I was reading an article about the first application for the restaurant. The article indicated that the research showed that there was no conditional use permit for the City owned golf course, New Berlin Hills. Has that been confirmed and if there is no permit, why not?

Mayor Wysocki – This goes back to 1908 when it was developed as a private facility. In 1920 it had a restaurant for golf purposes and was grandfathered in over time. A distinction was made that what was replaced with the new facility had always existed, nothing was additional. There was no use changes over those 80+ years.

Mayor Wysocki asked three times for any additional questions for clarification, seeing none.

Mayor Wysocki asked if there was anyone wishing to speak in favor?

Mark Knutson, 14170 W. Greenfield – I trust the Committee is familiar with Mr. Kern's long time efforts to develop what was originally the golf course. All of the processes which have brought him to where he is today were through the City of New Berlin. All the way back to 1994 when his original plan was to put a banquet facility in the structure that was originally submitted to the City of New Berlin. This is a Conditional Use Permit which means under P-1, the city has already denominated a banquet hall as an appropriate use. It is not asking for a rezoning of the property. In the previous zoning codes, it also identifies a banquet hall as an appropriate conditional use. It is a permitted use that requires an occupancy permit. What Mr. Kern is simply trying to do is a reasonable use considering what is there at this time and the adjacent golf course. In his hope to combine the properties, he wishes to maximize his opportunity at that site with the use that has been envisioned as appropriate in this zoning conditional use approval. I trust the Commission is aware of the long standing question of how New Berlin Hills came up with its new facility, but basically they have a new structure in a dense residential area with a large parking lot that has banquet facilities and that when it submitted its drawing to the City, the drawings identified multiple rooms as banquet rooms. That was passed and they have weddings banquets, etc in addition to a restaurant that serves golfers as well as anyone else who comes in off the street whether they have a bag of golf clubs they drop by the front door or not in addition to their Friday night fish fries. Deer Creek is another golf course that has banquet facilities and then there is Legacy on National Avenue. Mr. Kern simply wants to have the opportunity to use this property as a conditional use. He is not putting up a new building or changing the parking lot. He is adding an awning and will continue to operate the driving range so he simply says let me run my property like two other golf courses in the community. I suspect the residential area down by Deer Creek, although it is more dense than where Mr. Kern has his property, the traffic issues would be no different than Mr. Kern would face on Cleveland Avenue. While in the extreme you could say we are going to have 300 people a day there, seven days a week, I think we all know that is not going to happen and there can be adjustments to the occupancy limit to reduce the number of people in the wisdom of the Commission if they approve that. What is significant is that a place that was a manufacturing place that was not successful can be turned around into something that meets the needs of a lot of activities in the community. Not every gathering will be 250-300 people such as weddings. There are not going to be people there nonstop from noon to

2:00 a.m. We need to keep in mind what would be the reasonable uses of the property. We are asking the Commission to approve the conditional use and bring it within a clearly enumerated use for this type of property. I believe Mr. Kernan has submitted the requested information necessary apart from the water study that has been mentioned this evening. It is important to remember it is not a zoning change. This is simply a conditional use for the property that is there.

Mr. Kernan – I want to clarify something that was said before about New Berlin Hills. You said that the 1908 property was one property that went into another property. That is completely false. There was two separate buildings, a pro shop and a snack shop. I got the file from Nikki and found newspaper articles referring to the new club house serving hamburgers and hot dogs and that there will never be weddings, etc held there.

Mayor Wysocki – When I said 1908 I meant the site had been used for those purposes. I believe it was in the 1920s that the building was built.

Mr. Kernan - No, that is not correct, there were two separate buildings.

Mayor Wysocki – I just want you to know it went from two buildings to one.

Mr. Kernan - It did go from two buildings to one, in 1997.

Mayor Wysocki – No, I don't agree with you there. We will need to research this and get this information.

Mayor Wysocki asked three times for anyone else wishing to speak in favor, seeing none.

Mayor Wysocki asked if there was anyone wishing to speak in opposition.

Emily Erickson, 18040 W. Crabtree Lane – I am opposed to the 2:00 a.m. closing time. I feel that if you allow this this time you will be setting a precedent for future applicants. To the East is the Poplar Creek Church and across the street is the Greek Church. When the time comes, they too will want the 2:00 a.m. closing for the activities in their halls. If they don't get it, we have an idea what will happen. If this happens it will place a huge burden to the people there.

Vernon Bentely, 3450 S. Johnson Road – It was mentioned that Mr. Kernan wishes to maximize his opportunities on this property. This property was never designed for a banquet hall. When Raven was there, the neighbors asked why such a large building. A banquet hall was never mentioned. It was also mentioned that this was a manufacturing place. This was not a manufacturing place. We all know Tony Miller manufactured golf clubs because he had a business in Muskego. Time and time again we asked about manufacturing in this building. We were told no.

Now, this is what I really want to say. Years ago when Raven had their public hearing, the neighbors asked why such a big building for a driving range and they never got an answer. The neighbors knew Tony Miller manufactured golf clubs. I feel the plan deceived the neighbors at the time of that approval. Recently the public hearing was set for miniature golf at that property and I was in favor because it fits. We are supposed to be good neighbors. In a December 23, 2004 local newspaper Mr. Kernan promised to file a discrimination lawsuit against the City of New Berlin if his banquet facility was denied. This offends me and my neighbors and should offend the 38,000 residents of New Berlin to be threatened by a lawsuit by someone who doesn't even live in New Berlin when he doesn't get his way. New Berlin has a Master Plan that shows no businesses on Cleveland Avenue from Calhoun to Springdale. The Growth and Development Plan and Master Plan was approved in the late 90's by the previous Mayor, Plan Commission and Common Council. Decisions have been made following these plans for years. In the newspaper article Mr. Kernan mentions spending \$130,000 on the building and wants to ensure his

investment. Serving food and liquor from 12:00 noon to 2:00 a.m. in a banquet hall sounds to me like a business. Deer Haven, Raven and Tee It Up are to operate during daytime hours only. A lighting plan should not even be considered. A water study should be done. People spending an hour hitting golf balls is different from 300 people drinking and using bathroom facilities from 12:00 noon to 2:00 a.m. The possible contaminated landfill on the adjacent property should be inspected so as not to contaminate wells for the health and safety for anyone using that building for any reason. New Berlin's rural West side has many different characteristics from the East side. That is what New Berlin is. They should not compare Deer Haven to New Berlin Hills. Many thought the supper club idea was great, but like this banquet hall, put it in a business district where it belongs and we will be your customers. I am not in favor of this banquet hall on this property with so many unanswered questions.

Joe Russ – 16800 W. Shadow Drive – Initially I did not have an opinion on this. I was at the October meeting and heard Mr. Kernen's comments about what he was told and how things had suddenly supposedly changed. I suppose if he is a businessman and knows what he is doing he knows that even when you talk to someone at city hall things can change at a Plan Commission meeting. I guess that is part of the wisdom he should have learned. I am concerned about the light pollution. If you want another banquet hall and it was to operate during daylight hours, I might be more in favor of it. But you start putting people out on dark roads after a few drinks, it is a bad recipe. Also, I see this as getting a foot in the door. Get a restaurant facility and keep going. If he wants to file a lawsuit, it will just increase his taxes. I do not believe this is an appropriate development for this area.

Mayor Wysocki asked three times for anyone else wishing to speak in opposition, seeing none.

Mayor Wysocki asked for questions from the Commissioners.

Alderman Ament – At what point is the traffic impact statement needed?

Ms. Bennett – Information is needed prior to action by the Plan Commission.

Mr. Kernen – The architect has been working on this. He has had no return phone call from Ron. I talked to Amy about this last week and she said there is a response for restaurants but not banquet halls, so we need to know how you want us to proceed.

Alderman Ament – Staff can direct you as to what we need by March 7.

Mr. Kernen – We do have the counts on the road, but exactly what they were looking for was not in the book.

Ms. Jones – You could contact some of the traffic firms in the area and ask if they have some sort of average from different banquet halls.

Mr. Kernen – I know what to do now.

Alderman Ament – In the staff report under Findings, is No. 7 and 8 the same thing?

Ms. Bennett – That is the staff's letter with requirements.

Alderman Ament – I would like a copy of that letter and also of No. 8 if it is not the same.

Mayor Wysocki – You have a situation here where a property was purchased with certain legal characteristics to it which did limit its operations and its conditions of approval with regard to lighting and activity. It was strictly identified that daylight activities would be going on there. There is a lot of legitimacy of the conditions that were made to allow this structure to be built. It seems to me when you purchased the property, you purchase all of legal characteristics that are

there also. Reference was made to other sites that were there before a lot of other activity took place. This is something that would be new and changing and does deserve consideration in the conditions that would be put in place relative to the potential for this kind of use.

Mr. Felda – What is the lighting plan right now, as far as the parking lot, down lighting, up lighting?

Ms. Jones – Page 10 of the staff report shows a rough outline of a lighting plan. Every commercial business is required to submit one.

Mr. Felda – This is going to be an issue with the neighbors plus the area out there.

Ms. Jones – We have had staff meetings regarding this issue.

Mr. Felda – Will the music be outside as well as inside?

Ms. Jones – It will be required to be internal, otherwise they would need police permits for outside activity.

Alderman Ament – Nikki said a lighting plan is required for every commercial business, is that what we are calling this, a commercial business?

Ms. Jones – Yes, they are going to be serving people and people would be there for a duration of time. See Sec. 276-60(i). I would not have the power to waive any lighting requirements.

Mayor Wysocki called the public hearing closed at 7:33 P.M.

6:02 P.M. (3)NJ/AB CU-1-05 Independent Truck & Equipment, Inc. – 20090-20094 W. Lincoln Ave. – Truck and Equipment Repair.

#### NEW BERLIN PLAN COMMISSION

#### NEW BERLIN CITY HALL COUNCIL CHAMBERS

FEBRUARY 7, 2005

#### MINUTES

The public hearing relative to the request by Eric Volkmann, c/o Independent Truck and Equipment Repair, Inc. for a conditional use for truck and equipment repair located at 20090-20094 W. Lincoln Avenue was called to order by Mayor Wysocki at 7:33 P.M.

In attendance were Mayor Wysocki, Alderman Ament, Mr. Barnes, Mr. Sisson, Mr. Gihring, Mr. Felda. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Olofu Agbaji, Associate Planner; Amy Bennett, Associate Planner; Eric Nitschke, Storm Water Division Engineer; Larry Wilms, Division Engineer. Mr. Teclaw was excused.

Ms. Jones read the public hearing notice and stated there was proof of publication.

Ms. Bennett gave a brief presentation describing the request and showed maps indicating the location.

Mayor Wysocki asked if there were any comments or questions for the purpose of clarification.

Vicki Petrovich, 2330 S. Johnson Road – I understand that there is a rule with the city and some of the business on Lincoln that the trucks are supposed to go East toward Calhoun not West using Johnson as a thoroughfare. Will you abide by that rule? Can I have something in writing that will guarantee that? Can that be a condition of approval?

Vern Bentley, 3450 S. Johnson Road – This opens the door for another business going in on Lincoln Avenue. A lot of this was going on in the late '90's with all the residents in the area with all the trucking companies coming in there. I don't know if it was in writing but I know there was an agreement that all the trucks would travel to the east. A couple years ago, the property that is East of these gentlemen's property was having trucks coming out of there making a right hand turn and they are supposed to be staying off of the residential road which is Lincoln Avenue to the West, Springdale to the North and South and Johnson Road. One of the neighbors and the business man got into it. The City was notified and came out and put two white posts to deter these trucks from making a right hand turn. I drove by there today and both of those white posts are laying broken off on this gentlemen's property. Even at the time it happened, the neighbor mentioned the semis will just knock those posts down and he was told at the time that if the posts are knocked down, and it was done by the business across the street, he would be fined. I don't know if this is documented anywhere. I know there is an issue with the City with this.

I live on Johnson and just north of me is a hill. There are five homes on each of the street that have signs "no need to speed" and most of the traffic coming from Racine Avenue, comes up Coffee and takes Wehr Road over to Cleveland. They travel fast. We get trucks 24 hours a day. When they are going south you hear them hitting their jake brakes and trying to get that thing stopped before they get to Coffee Road. I am just saying that I don't have too much to say about this proposal but I would like to have the City look into having something done about making the trucks on Lincoln go east to Calhoun.

Mike Mistele, 20285 W. Lincoln Avenue – Your business hours are from 7:00 a.m. – 5:00 p.m. Do you expect to expand those as your business expands?

Eric Volkmann, representative of business - No, I do not.

Mr. Mistele - Will there be storage allowed?

Mr.. Volkmann – There will be no storage of vehicles on the property.

Mr. Mistele – Will you limit your business to one shift a day?

Mr. Volkmann - I only have three employees that will be working the hours mentioned.

Mr. Mistele - Is this permit permanent once it is approved?

Mayor Wysocki – Yes

Mayor Wysocki asked three times for any other questions for clarification, seeing none.

Mayor Wysocki asked if there was anyone wishing to speak in favor?

Rhoda Flagg, 3180 S. Thornapple Lane – I think it is important that we keep income producing businesses coming into New Berlin.

Mayor Wysocki asked three times if there was anyone else wishing to speak in favor, seeing none.

Mayor Wysocki asked if there was anyone wishing to speak in opposition?

Mike Mistele, 20285 W. Lincoln Avenue – I think we have enough traffic on Lincoln Avenue. I'm starting a family and I don't need any more traffic, not to mention noise. I'm sure he will want to expand, after all, if the business is there, why not? I can only assume that repairs will end up being done outside as well as inside and I anticipate an outside storage issue with trucks waiting for service or pick-up. In a perfect world – Not in my backyard. I am sure there are contaminants and chemicals that need to be dealt with. Then there is the lighting. I live right down the road and I don't want a Walmart looking place. At this point, I am against it.

Vicki Petrovich, 2330 S. Johnson Road – I have been hearing about the Master Plan all night where it supposedly says no businesses are allowed West of Calhoun. This seems to be against the Master Plan. I live close enough to the industrial park to know that New Berlin residents are proud of it and there are buildings that are vacant. If Mr. Volkmann is interested in this business, I say more power to him, but go rent a building in the industrial park where it belongs, not on Lincoln Avenue just around the corner from a residential area. Something also says that there will be no more businesses and it seems like he has already gotten approval to build this building, so he must have had something up his sleeve to continue along this path and I think we should be smart enough to say no to him. I oppose this.

Vern Bentley, 3450 S. Johnson Road – Before anything is done with this by the Plan Commission, I would like to see something done to get this traffic to travel East on Calhoun Road. I think all we need to do is mention something to these people and there won't be a problem.

Mayor Wysocki asked three times if there was anyone else wishing to speak in opposition, seeing none.

Mayor Wysocki asked for questions from the Commissioners.

Alderman Ament – Do we need a traffic analysis?

Ms. Jones – This is basically a tenant reoccupying an existing shell.

Alderman Ament – It seems like the major part of opposition is due to the traffic in a direction that is not desirable. Will we have information for item #10 under Findings on the staff report.

Ms. Jones – Yes, Eric Nitschke has been working with the applicant to talk about filter strips and things he can add to the site in case anything would ever leak out. That is why he is required to do work inside.

Alderman Ament – The big thing is the traveling west and maybe staff can look at that.

Mr. Sisson – Did I understand that there would not be trucks parked at the rear of this building?

Mr. Volkmann - There is a proposed area behind the building for trucks waiting to be repaired.

Mr. Sisson – Is that why they have asked that you asphalt that part of the parking lot?

Ms. Bennett - It would need to be recycled asphalt.

Mr. Sisson – What is it now?

Ms. Bennett – Gravel.

Mr. Volkmann – It is recycled asphalt.

Ms. Bennett – OK.

Mayor Wysocki – The Master Plan on the Lincoln Avenue corridor already has it as Business Park Industrial and is already zoned M-1. The update to the plan does indicate that this property would continue as a business park/industrial area. That was one component of the Master Plan that dealt with the Lincoln Avenue corridor. Just so we are clear on that.

Mayor Wysocki closed the public hearing at 8:00 P.M.

NEW BERLIN PLAN COMMISSION  
NEW BERLIN CITY HALL COUNCIL CHAMBERS

FEBRUARY 7, 2005

MINUTES

The Plan Commission meeting was called to order by Mayor Wysocki at 8:00 P.M.

In attendance were Mayor Wysocki, Alderman Ament, Mr. Barnes, Mr. Sisson, Mr. Gihring. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Olofu Agbaji, Associate Planner; Amy Bennett, Associate Planner; Eric Nitschke, Storm Water Division Engineer; Larry Wilms, Division Engineer. Mr. Felda and Mr. Teclaw were excused.

Motion by Alderman Ament to approve the Plan Commission Minutes of January 10, 2005. Seconded by Mr. Sisson. Motion carried unanimously.

Plan Commission Secretary's Report - Public Hearing at Plan Commission scheduled for February 14, 2005 and Plan Commission meeting scheduled for February 17, 2005 for the Subdivision and Zoning Code Amendments.

NEW BUSINESS

5. (2)AB R-1-05 Open Pantry – 15551 W. Cleveland Ave. – Gas Station and Convenience Store.

Motion by Mr. Barnes to forward to Common Council to request a Public Hearing be set for the March 7, 2005 Plan Commission meeting to rezone the property located at 15551 W. Cleveland Avenue from B-4 to B-2.

Seconded by Alderman Ament. Motion carried unanimously.

6. (7)AB R-13-04 Woodland Meadows – 3335 S. Catamount Dr. – Rezone from R-1/R-2 and C-2 to R-1/R-2/C-2/C-3.

Motion by Alderman Ament to forward to Common Council to set a Public Hearing for the March 7, 2005 Plan Commission meeting regarding the petition to rezone the property located at 3335 S. Catamount Drive from R-1/R-2 and C-2 to R-1/R-2, C-2 and C-3.

Seconded by Mr. Sisson. Motion carried unanimously.

7. (2)TK U-69-04 Wendy's Restaurant – 2660 S. Moorland Rd. – Fence.

Motion by Alderman Ament to approve the after the fact request to construct a 6 feet fence in the front yard of Wendy's Restaurant located at 2660 S Moorland Road subject to the application, plans on file, and the following:

- 1) All old and new sections of the fence shall be painted to match the exterior architectural color of the building by Wednesday June 1, 2005. Please see to it that a paint sample of the color chosen by Wendy's is submitted to the Department of Community Development prior to painting the fence.

- 2) The fence shall comply with the standards set forth in § 275-42.G.(3) Fences of the City of New Berlin Zoning Ordinance and shall be maintained at all times.
- 3) The property is currently zoned B-4. Section 275-13.1(H)(2) "Transitional Provisions", of the New Berlin Zoning Ordinance states that all areas in the B-4 District shall be governed by the regulation of the B-2 District. Any action requiring Plan Commission approval or review on areas zoned B-4 shall include a rezone petition to an existing zoning district. The City of New Berlin will initiate a petition to rezone the property from B-4 to B-2.

Seconded by Mr. Sisson. Motion carried unanimously.

8. (2)TK U-75-04 Bob Jeske – 13200 W. National Ave. – Dump Truck Storage and Office.

Motion by Alderman Ament to approve the request for an after the fact home occupation office for a truck transporting service located at 13200 W. National Avenue, subject to the application, plans on file, and the following:

- 1) Home occupation shall meet all requirements set forth in Section 275-42 "Home Occupations" of the City of New Berlin Zoning Ordinance.
- 2) If signage is necessary, a separate sign application needs to be applied for prior to any installation of signage on the property per Section 275-61 H(1).
- 3) Home occupation operations to take place in the home shall be limited to office type work. Answering phones, paperwork related tasks etc.
- 4) The two dump trucks shall not be stored on the property and shall be removed immediately.
- 5) The home occupation shall be approved for a temporary 1-year period. If at the end of that 1-year period there are no violations or complaints related to the home occupation and its operations, then a permanent Zoning Permit will be granted.
- 6) No outside storage is allowed.
- 7) The home occupation operations shall not deviate from what was submitted on the Plan of Operation. ANY changes to the Plan of Operation will require that a new use approval application be applied for.

Seconded by Mr. Sisson. Motion carried unanimously.

Motion by Alderman Ament to approve the request for storage of 2 dump trucks on the property located at 13200 W. National Avenue, subject to the application, plans on file, and the following:

- 1) Home occupation shall meet all requirements set forth in Section 275-42 "Home Occupations" of the City of New Berlin Zoning Ordinance.
- 2) If signage is necessary, a separate sign application needs to be applied for prior to any installation of signage on the property per Section 275-61 H(1).
- 3) Home occupation operations to take place in the home shall be limited to office type work. Answering phones, paperwork related tasks etc.
- 4) The two dump trucks shall not be stored on the property and shall be removed immediately.
- 5) The home occupation shall be approved for a temporary 1-year period. If at the end of that 1-year period there are no violations or complaints related to the home occupation and its operations, then a permanent Zoning Permit will be granted.
- 6) No outside storage is allowed.
- 7) The home occupation operations shall not deviate from what was submitted on the Plan of Operation. ANY changes to the Plan of Operation will require that a new use approval application be applied for.

Seconded by Mr. Sisson. Motion carried unanimously

9. (7 )NJ PG-946 New Berlin West High School – Sewer Service Area Boundary Change Request

Motion by Alderman Ament to table the request by City of New Berlin School District for a sewer service area boundary change per the applicants request.

Seconded by Mr. Sisson. Motion carried unanimously.

10. (4)NJ R-12-04 Living Word Church – Approx. 21400 W. National Ave. – Rezone from Q-1 to R-1/R-2. Set Public Hearing.

Motion by Mr. Gihring to table the request to rezone the property known as Living Word Church located at 21400 W. National Avenue from Q-1 to R-1/R-2 at the applicants request.

Seconded by Alderman Ament. Motion carried unanimously.

#### COMMUNICATIONS

11. Communication To: Plan Commission  
Communication From: Nikki Jones, Planning Services Manager  
RE: Correspondence regarding Michael Roman, 18715 W. Greenfield Avenue, from Nikki Jones.

Staff was asked to respond to a letter from Mr. Roman dated December 12, 2004. That letter of response is dated January 28, 2005. This issue is based on code changes. This and more of these issues will be addressed at the Public Hearing on February 14, 2005 and the Plan Commission meeting on February 17, 2005. It was suggested that Mr. Roman attend these meetings.

12. Communication To: Plan Commission  
Communication From: Nikki Jones, Planning Services Manager  
RE: Correspondence regarding LaVerne Gebhard

Ms. Gebhard is welcome to come to speak at the privilege of the floor if she still has comments or questions on this matter.

13. Communication To: Plan Commission:  
Communication From: Greg Kessler, Director of Community Development  
RE: "Off Limits", Builder Magazine, January 2005.

Plan Commissioners acknowledged receipt of this communication.

14. Communication To: Plan Commission  
Communication From: Greg Kessler, Director of Community Development  
RE: Wisconsin Chapter of the American Planning Association Legal Update by Michael R. Christopher, DeWitt, Ross & Stevens S.C., January 14, 2005.

Plan Commissioners acknowledged receipt of this communication.

Motion by Alderman Ament to adjourn the Plan Commission meeting at 8:44 P.M. Seconded by Mr. Sisson. Motion carried unanimously.

